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SOLUTIONS OF THE LABOR PROBLEM.

BY DAVID DUDLEY FIELD AND OREN B. TAFT.

I. INDUSTRIAL COÖPERATION.

BY DAVID DUDLEY FIELD.

THE NORTH AMERICAN REVIEW for May 1885 contained a paper of mine on industrial coöperation, in which I gave the outlines of a scheme which appeared to me feasible for reconciling capital and labor. Some criticisms upon the scheme lead me now to follow up the discussion.

Are we any nearer a reconciliation between capital and labor than we were a decade ago? So far from it, there is apparently greater antagonism than there ever was, or rather, I should say, there is greater display of antagonism. Why is it so? Certainly men are improving in intelligence. Is it because the problem is unsolvable? This I do not believe.

There are several reasons why the progress has been so slow. The first and greatest is the action of the workmen themselves in resorting to violence and annoyance in order to gain their ends. By workmen I mean all those who contribute to material products by the labor of their hands alone, whether they be called laborers, wage-earners, or operators. These form a large class in themselves, though they are a minority, and a small minority, of the whole population. Their great mistake has been, as I have said, in resorting to violence. Rare must be the occasions in any civilized country when violent methods can serve a useful purpose in the redress of wrongs. But here, where manhood suffrage prevails, everything can be obtained by law, so far as it is within the domain of law. So large a body of voters as the wage-earners will be sure to obtain by the suffrage all that suffrage can force from the government of the country. Violence is therefore unnecessary. It is moreover impolitic, because it alienates the majority.

Workmen should learn this lesson: That they cannot succeed against the wishes of the rest of the people. Read a page or two out of recent history. It is not very long since a railway train

was stopped without previous notice in a tunnel at New York by the desertion of the engineers half a mile or so from the station. The train bore men, women and children, some persons perhaps in feeble health. The stoppage of the train under such circumstances was a work worthy of brigands. It inflicted grievous wrong on unoffending persons in order to coerce the railway company. Two months ago strikers at Homestead violently opposed the landing of the Pinkerton men from barges on the Monongahela, fired on them, and attempted to cover the water with oil and set it on fire. Later on, at Buffalo, cars were set on fire and rails torn up. In New York walking delegates entered buildings in the course of construction, and the workmen obeyed, like so many slaves, breaking their engagements and bringing the work to a stand-still. In Tennessee, miners, who opposed the employment of convicts in the mines, being unable, or not attempting, to procure a repeal of the law directing such employment, sought by arson and murder to prevent its enforcement. In the States of Tennessee, Pennsylvania and New York the militia was called out by thousands to repress the disorders, causing much hardship to the soldiers and much expense to the States or their municipalities. Do the men who create these troubles imagine that they can thus coerce a free and gallant people? They may go on thus for a season, but they will come to naught in the end, because their conduct is incompatible with the order of society, and all the instincts of manhood are against them.

How many American citizens were engaged in these disorders I do not know. A report of a speech made in Congress states that in the crowd which insulted and abused the captive Pinkertons were foreign women and children. If these foreigners come here to break our laws, we had better punish them first and then send them back whence they came. All these disturbers of the peace, foreign or native, acted in defiance of law, those in New York in defiance of express provisions of the Penal Code.

Now then, if we eliminate annoyance, menace and violence from the controversy between capital and labor, what are the means by which we may hope to reconcile them? Compulsory arbitration will not avail. The hiring of labor is, in its essence, a contract of sale. The employer buys the labor and the laborer sells it. If the State should attempt to fix the price in this transaction, it might for the same reason fix the price of land or corn

or any other commodity in any other sale. This would be despotism, and no modern society would submit to it. We may as well first as last assume that the hirer and the hired *must agree between themselves*. This is fundamental. The moment it becomes established that the State, that is the body of citizens, may decree the price of labor, that moment the reign of the commune begins. It would take but a few years, under this theory of paternal government, to gather to itself all business and all fortunes. Who can foretell what evils may befall us when we once fall into the grasp of this new octopus of man's creation? *Obsta principis*.

What, then, can the State do? What could the law accomplish if the wisest heads in the country were called in to advise? There is in my opinion one way, and one way only; and that is, by all means in its power to induce the capitalist and the workman to act in harmony. How can this be effected? The State cannot compel the individual citizen to take his workmen into any kind of partnership; but it may compel those to whom it grants corporate franchises for purposes of profit to accept the franchises on condition of giving the workman an interest in the product. A very great share of modern enterprises is undertaken by corporations. They are the creations of the State, and if they take grants they must submit to the terms of the grantor.

Let us imagine such an establishment as I suggest. Suppose a factory to be chartered, with a capital of a million of dollars divided into two hundred thousand shares of five dollars each, three-fifths of them to be payable in cash or property, as at present, and two-fifths in prospective labor; the former to be invested in land, buildings, machinery, and whatever else may be necessary for such an undertaking, and the latter reserved for such workmen as may be taken into the concern; the skilled workmen to be allowed wages, say, for illustration, at the highest rates of the market, four dollars a day or more, and the unskilled two dollars a day, and each one to be registered for four hundred shares. If the earnings were six per cent. on the capital each skilled workman would be credited in twelve months, that is to say for 300 days' work, with \$1,200 for wages and \$120 for profit. Deducting \$500 for his supplies, including food, clothing, and lodging, there would be left to his credit at the end of the year \$820, which would pay for a hundred and sixty-four shares of the stock. He would then have had his living and become the owner of a hundred and sixty-

four shares of the company. In the next year he would acquire a hundred and sixty-four additional shares, and in less than three years would have more than paid for all the four hundred. The rate of wages, the supplies furnished, the admission and dismissal of share-workers, and the discipline of the establishment should be vested in all the shareholders, actual or expectant, while the financial department, and the purchases and sales, should be in the hands of the cash or property shareholders. Capital and labor would thus be brought into closer communion, and made to lean on each other. To this end the requirement of a cash or property capital would be in part dispensed with, and instead of it an obligation to labor accepted. The share-workman must have the means of living while he is earning the price of his shares. He must be enabled to live as cheaply as possible, by having his supplies furnished at the lowest price. He must have fair wages, and withal reasonable maintenance, and the prospect of bettering his condition by becoming a participant in the profits of the combined labor and capital. But all concerned should have the power of superintending the conduct of the workmen, choosing between applicants and dismissing the idle or incompetent, recompensing them, of course, for what they have already earned and saved.

Is such a scheme as this an idle dream? Something like it has been tried in other countries. Any one who has shopped at the Bon Marché in Paris, may have been struck with the refusal of the shopboy who brought a parcel to the carriage in the street, to take the usual gratuity, bowing his head with thanks, as if to say, I am a part proprietor in this establishment.

One objection I have heard made to such a scheme is, that the share-worker will have to run the risk of losses. That, however, is only what the share-capitalist has to meet, and if the workman is as well off as the capitalist, there will be small reason to complain. It might be stipulated, however, that the workman should in any event retain the portion of his wages set apart for his living, or he might insure his share to a greater or less extent, paying therefor a premium not greater than he now pays to his union or other society of workmen.

Another objection that I have heard is that the scheme proposed would benefit only skilled workmen, those whose wages would naturally exceed their cost of living. That would depend, of course, upon the price of the unskilled workman's labor. At all

events the scheme would benefit the skilled workman, and thus create an incentive to the unskilled to perfect himself in his art.

What could the State do for the encouragement of such a coöperation of capital and labor? Simply change the statutes respecting corporations, so as to provide for the division of the shares of corporations formed for profit into small parcels within the reach of workmen, and fill up a few details. Consult the history of coöperative societies in other countries. The problem has been largely worked out there. If we can solve the problem fully, we shall confer a great benefit on all classes of our people.

I have great sympathy with the workingmen, which even their outbreaks of violence have not extinguished, though they have saddened it. If I thought that the workmen would listen to me, I would say to them: Be brave, but be peaceable; you have in the ballot a weapon stronger than the sword or the right arm; remember that many a present millionaire was not long ago a workman like you; your surest reliance is on the sympathy of your countrymen, on prudent counsels and the rapid march of time.

DAVID DUDLEY FIELD.

II. LABOR ORGANIZATIONS IN LAW.

BY OREN B. TAFT.

A CONSIDERATION of the labor problem must recognize the following facts:

1. That there are three interests involved—the commonwealth or social fabric, capital, and labor; that all these are or must be invested with both duties and rights, defined by law both for their defence and as a means of compelling the discharge of responsibilities. Capital has already an existence in the statutes, enabling it to enforce, as well as to defend, its rights. Having such existence it may be compelled to discharge its duties. Labor itself must have a legal standing of like importance, and for the same reasons. The commonwealth has the right to enact any statute restricting organizations that so disturb affairs as to threaten society; it has the duty of providing for, and enforcing as law, the rights and duties belonging to capital and labor in their relations one to the other.

2. All interests involved must reckon upon the expanding and inspiring influence of the American political and social idea; this country began its career by declaring that all men are born

equal ; there was to be no law save that of ability and opportunity to stand between what any man has rightfully accomplished and what any other might ; it made each man the peer of every other for every lawful personal interest he might have. Under this influence so rapidly have men gone from the employed to the employer that the distinction in rank has almost disappeared.

3. A third fact which must be kept in view is that labor, competent to organize and direct itself, is something more than a commodity ; that the nature of both capital and labor is such that neither may safely be regardless of the rights of the other. All capital has its origin in labor. Labor is vitally dependent on capital. To treat labor as a thing to be bought in the cheapest market, is to treat it as a commodity and not as a man. The public, the commonwealth, sees in this labor a citizen in whom it has a valid interest, and whatever unmans him is inimical to capital itself, to labor and to the commonwealth.

It is also true that labor has grown intelligent and is taking this new view of itself ; that if the mind of the individual to whom it belongs is sufficiently intelligent to comprehend the purpose and enter into the spirit of the work which he is called upon to do, with that same relative degree of intelligence and faithfulness which his own part bears to that of the intelligence, capital, and effort furnished by his employer, his recompense should bear a like relative return ; and, further, that it is not a privilege, but an inherent right belonging to him that he be consulted, and his own intelligence be allowed to enter into any consideration that has to do with that labor. More than this, labor has grown intelligent of the fact that there is a vast difference between the lack of friction with which capital attains its legitimate ends, and that with which labor attains its ends ; that all the machinery of State stands ready to protect and further the interests of capital, while labor is left absolutely without law, a law unto itself, save when it commits some act, to be dealt with as a criminal ; that there is no recognition in law of intelligent labor, capable of directing itself, as a something to be developed, capable of undertaking enterprises, of assuming responsibilities and an ability to guarantee its undertakings.

These facts recognized they become evidence that we are on the eve of one of those rare events, when in the evolution of commercial economy an entirely new factor is to come into affairs ; when or-

ganized labor is to take its place in law and the courts by the side of, and be the equal of, capital, with like legal recognition, advantages, encouragement, and with none the less of its responsibilities and liabilities, willing to imperil the liberty of its person as the guarantee for its good conduct.

Intelligent organized labor is ready to consider with capital and the general public, and equally well to comprehend, such propositions as the following :

I. That it will not do for labor to have reason to believe capital has a more solid standing in law than labor.

II. But capital has a more valid existence so far as statutes and courts are concerned, because in making contracts with labor, it has such possessions as may be reached by law in case of failure to execute its contracts.

III. It obtains this position of power in law, only by having made the concession of an unrestricted liberty with its own capital after having failed to perform its obligation recognized by law. For a standing place in the law, under a commonwealth stronger than all parties to any contract, capital voluntarily permits itself to be sued, to be annulled, to lose the right to do business, to be confiscated, if needs be, to make good its contracts.

IV. The anomaly and weakness of the social order with labor not a like factor in law, is, that only one party in a contract made between capital and labor is in any valid way liable to suffer a penalty, in the form of damages for non-performance. There is nothing in the laborer until he becomes in some sense a capitalist to make him a valid person in the courts; until then he has no right to ask the commonwealth to inflict penalty upon capital since he has no capital of his own to be confiscated in a similar case.

V. A law ought to be made which would recognize the facts. The facts are, that the laborer is a capitalist, his capital is *his own person—himself*. In a contract he offers on his part *himself* to do a certain amount of labor.

VI. The laborer who enters into a contract with capital will not occupy the same standing place in common justice and law until, according to statute, it cedes to the same third party, the commonwealth, as representative of the public and social order, the full power in the same certain case to restrict it, to confiscate it. It must be legal for the commonwealth to confiscate capital, as it is; and for the same government, in the same interests, to imprison labor, unless it shall offer a money equivalent, whenever the possibility of fulfilling contract is frustrated voluntarily.

The remedy proposed, then, restricting this question at this time to organized labor, is the enactment of a law providing for the existence of labor organizations, and permitting none to exist after a proper time except under that law.

In outlines, the suggestions for such a law would be something as follows:

Any number of persons more than (say) five in number, who may desire to form a society, organization or corporation, whose purpose shall be to promote the interests of its members in the joint control and management

of their labor, in whatever pertains to such labor, as wages, time, etc., shall be required to file (with the proper officer of the State, to be determined in forming this law) a certificate, signed by all its members, stating its object, including the kind of labor proposed to be done, and its ability to perform it, where located, etc.; such certificate to state the full name, age, residence, and the married or single condition of each member. This certificate shall also be recorded in the county where such organization is located, and if it does business in more than one county, then in every such county; all changes in membership or residence to be made a matter of record within five days; no withdrawal to be allowed during existing contracts entered into by the organization.

This corporation shall in law be capable of suing and being sued, have and use a common seal; shall have a board of managers with power, under restrictions to be determined, of making contracts involving the time, wages, and labor of all or any portion of its members, as comprehended within the purpose for which organized. The membership being a voluntary one, with a declared ability to perform its contracts, the courts shall be given power to enforce the labor of its members, jointly or severally, as the case may be, in the fulfilment of any contract, to the extent of imprisonment in case of failure or refusal, the health and physical ability at the time, if pleaded, to be a matter within the discretion of the court, the usual proper means of determining the same being used. A desertion from the organization, failure to respond to summons, or taking oneself beyond the jurisdiction of the court, pending any adjudication, to be a contempt of court, shall be punishable by imprisonment or fine or both, in the discretion of the court, with power to reach the person in any of the States permitting it or having adopted the law; a money equivalent for the person in the guarantee of any contract under consideration in court always to be accepted, the principle being that the person of the laborer (it being his capital) is held only as an offset for the capital of the employer, which is money or its equivalent.

All existing associations, societies, or organizations, known as, or in the nature of, "Federations of Labor" shall be declared unlawful, after giving them a proper time, say three or six months, in which to reorganize if they so wish, under the new law. The members of such existing organizations after such a time has expired, if not disbanded, or having complied with the law, shall be subject to arrest and a penalty by imprisonment to be inflicted as may be determined.

In proposing this remedy, whether the infliction of imprisonment upon the person of the laborer, who, after voluntarily becoming a member of a legally-organized labor association, then of his own volition refuses to furnish his capital—that is, his ability to labor—in compliance with a contract, is constitutional or not, has not entered into this present consideration, under the view that the problem is important enough to warrant constitutional changes if necessary to a satisfactory solution.

OREN B. TAFT.